



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

JET
Docket No. NR2389-14
10 Sep 14

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 September 2014. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CNPC Memo 1780 PERS-314 of 10 Jul 14, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In making this determination, the Board concurred with the comments contained in the advisory opinion. The Post-9/11 Veterans Education Assistance Act (Post-9/11 GI Bill, Public Law 110-252) was signed into law on 30 June 2008 and became effective on 1 August 2009. General descriptions of the essential components of the new law were widely available beginning in summer 2008 and specific implementing guidance was published in the summer of 2009.

Under the governing regulations, to be eligible to transfer benefits, a member must be on active duty or in the selective reserve at the time of the election to transfer. This is an important feature of the law because the transferability

provisions are intended as an incentive vice a benefit. Members who are retired are not eligible to transfer. Information about the Post-9/11 GI Bill has been readily and publicly available, and you could have used available resources to educate yourself on your educational benefits.

Evidence shows that you failed to take the steps necessary to transfer benefits. Your application claims, essentially, that "Transfer of eligibility of Post 9/11 was approved however, a OBLISERV requirement of 1 May 2015 was incurred. I am requesting for Transfer eligibility of Post 9/11 GI-Bill to be approved without OBLISERV requirement due to the fact that I received improper counseling from Command Career Counselor (CCC)." Whether you were given improper counselor or not, as previously stated, information about the Post-9/11 GI Bill has been readily and publicly available, and you could have used available resources to educate yourself on your educational benefits.

You also stated in your application that you "submitted a retirement request of 1 August 2014." However, in phone conversation with PERS-314 and as stated in the attached PERS-314 enclosure dated 10 July 2014 (mailed to you on 28 July 2014 for a response, which you failed to provide a response), you submitted your retirement request on 9 December 2013 for a 31 July 2014 retirement. Your retirement was approved on 2 January 2014, and on 31 July 2014 you retired (as verified by DD Form 214). PERS-314's advisory advised that should you retire "prior to 1 May 2015 his dependents will no longer be eligible for the Post-9/11 GI Bill benefits."

Under these circumstances, the Board found that no relief is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official

naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

A handwritten signature in black ink, appearing to read "R. J. O'Neill", written in a cursive style.

ROBERT J. O'NEILL
Executive Director

Enclosure: CNPC Memo 1780 PERS-314 of 10 Jul 14